THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.26481 OF 1996

Dated: 27-02-2007

Between :

G. Narasimha Murthy ... Petitioner

And

1. The District Collector, Srikakulam,
   Srikakulam District., and 2 others. ... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.26481 OF 1996

ORDER:

The 2nd respondent herein by order dated 16-7-1996 ordered ejectment of the writ petitioner herein from the land in his occupation in exercise of the powers conferred under Section 3 (2) (a) of the A.P. Scheduled Areas Land Transfer Regulation (Regulation 1 of 1959) holding that the petitioner who is a non-tribal is in possession of the land in question in contravention of the provisions of the Regulation 1 of 1959. Aggrieved by the same, the petitioner preferred an appeal before the Agent to the Government – the 1st respondent herein. The said appeal was dismissed at the threshold on the ground that the appeal was filed through an advocate without seeking permission of the appellate authority as required under Rule 11 of the A.P. Scheduled Land Transfer Rules, 1969 (for short, 'the Rules'). Aggrieved by the said order dated 27-9-1996, this writ petition has been filed.

This Court while directing Rule Nisi, by order dated 12-12-1996 directed that status quo obtaining as on that date shall be maintained.

A counter-affidavit has been filed on behalf of the respondents stating that since the appeal preferred by the petitioner was not in accordance with Rule 11 of the Rules, the1st respondent had rightly rejected the appeal.

I have heard the learned Counsel for both the parties.

It is true that under Rule 11 of the Rules no party shall be

entitled to represent by the legal practitioner before any officer in any proceedings under the Rules without the previous permission in writing of the Agent or the Agency Divisional Officer.

Even assuming that the petitioner failed to seek such permission, the 1st respondent is not justified in dismissing the appeal in limini at the threshold, but ought to have afforded an opportunity to the petitioner to take appropriate steps in terms of Rule 11 of the Rules so as advance substantial justice to the parties by deciding the matter on merits. The dismissal of appeal on such technical ground is unwarranted.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of granting leave and liberty to the petitioner to move an appropriate application in terms of Rule 11 of the Rules within six (6) weeks from the date of receipt of this order. In case any such application is filed within the time fixed above, the 1st respondent shall entertain the same and decide the Appeal in accordance with law on merits as expeditiously as possible preferably within a period of six (6) months thereafter. Till such time, Status Quo as ordered by this Court on 12-12-1996 shall be maintained. No costs.

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G. ROHINI, J.

Dt. 27-2-2007

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